



## SHIPPING INTELLIGENCE.

### DEPARTURES.

July 17.—*New Star*, H.M.S., Sir Everard Home, for Auckland. Passenger—Captain Egerton, of H.M.S. *Bazard*.

July 17.—*Providence*, schooner, Captain M'Cook, for Port Phillip. Passengers—Mr. Robins, and Mr and Mrs. Smith.

### COASTERS INWARDS.

July 17.—*Rose*, steamer, 172, *Pattison*, from the Hunter, with 110 tons tallow, 110 hides, 300 bushels grain, 92 tonnes hay; *Eller*, 12, Lane, from Brisbane Water, with 300 feet sawn timber, 5000 shingles, 200 billets.

### COASTERS OUTWARDS.

July 17.—*Dorset*, brig, Captain Walsh, for Morpeth, with sundries; *Mermaid*, 25, Bushy, for Port Macquarie, with sundries; *May Ann*, 52, William, for Port Macquarie, with sundries; *Jessie Scott*, 36, Johnstone, for Port Macquarie, with sundries; *Port Philip*, 45, Hutton, for the Bellinger, with sundries; *Charles Webb*, 22, Gibson, for the Bellinger, with sundries; *Ariadne*, 12, Settree, for Brisbane Water, with sundries; *Susan*, 13, Twible, for the Hawkesbury, with sundries.

### EXPORTS.

July 17.—*Dorset*, brig, Captain Walsh, for Adelaide, 12, barrels soap, 6 cases spirit, 1000 feet rope, 1 case leather, 1 case Fortune's case hats, 1 case drapery, 1 box fine glass, J. G. Raphael; 5 cases oranges, John Watts; 2 pocketbooks hope, 3 bags oatmeal, W. Richardson; 3 cases beer engines, 2 cases spirit fountains, 1 case pewter ware, 5 rolls piping, 1 case glassware, 1 bundle billiard cues, Lewis Samuel; 1 case drapery, A. Dretreul; 6 cases slops, 2 cartouches currants, Lett Barnett; 7 cases apples, G. Dent; 2 boxes paper, 1 case sugar, E. Dent; 1 case needles and 1 case buttons; Buskhill; 4 bundles trees, McDonald; 1 case fruit, Dr. Dawson; 1 case fruit, Oliver; 75 iron pots, D. Solomon; 4 packages trees, 2 cases oranges, E. Rowley; 2 pair bellows, 17,000 feet cedar, 1 box tea, 25 chest congo, 8 boxes hope, V. Solomon; 7 cases slops, M. Joseph; 7 baskets 1 package oranges, George Thornton; 8 cases oranges, 6 packages trees, C. Soubrier; 20 boxes, G. Wyer; 1 box hardware, Lazar; 1 box gold coin, Bank of Australia.

### DIARY.

#### MEMORANDA FOR THIS DAY

July.	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
15   FRIDAY	7	0	1	6	0	7	18
Moon—Full, July 19, 7 m. past 4, P.M.							

The Sydney Morning Herald.

FRIDAY, JULY 18, 1845

"Sworn to no master, of no sect am I."

### QUIT-RENTS.

It is now nearly two years since we advertised, in terms of complaint, to the measures then beginning to be adopted by the government for the enforcement of the payment of quit-rents. Since then, instances of hardship have been reported to us, in which the live stock of individuals having no interest whatever in the land for which arrears of quit-rents were owing, has been levied on, and other instances wherein the properties themselves have been virtually lost to the owners, in consequence of the magnitude of the sum requisite to clear off the arrears and redeem the charge for the future. One large pastoral property has been mentioned to us as burdened to the extent of five shillings an acre, the arrears due on the different grants of which it is composed, have been accumulating during twelve years, and twenty years payment is necessary for redemption for the time to come; and the amount required for both purposes exceeds three thousand pounds. The selling price of fair pastoral land, within the boundaries, with improvements proportionate to the extent, may be stated at five shillings per acre; that of agricultural land seems to be really nothing at all at present. Those uncoloured grants, therefore, which are subject to the ordinary quit-rent of two-pence per acre per annum, and more especially when some years in arrear, seem to be in a hopeless state, if no modification of the claims of the Crown can be obtained.

This brings us to consider the great argument advanced by Government in justification of the strict exaction. It is alleged that the Governor has no power to give up the revenue of the Crown, which is in fact the property of the public, and that nothing could be more objectionable or unconstitutional than the assumption on the part of the Governor of any British colony, of a power to remit quit-rents or to enforce payment of them at his pleasure; and that the notices allowing the redemption of quit-rents at ten instead of twenty years' purchase, were of a temporary nature, and the periods during which they were in operation have long since expired, and they cannot be extended or renewed without the express permission of HER MAJESTY'S Government.

It is too common for us to overlook the limitation of the GOVERNOR'S powers, and we are forced to grant that it is an argument not to be got over, but in one way. It is such a reply as renders unnecessary any answer to, or examination of, the other reasons set forth, in any request, for mitigating the burden of the quit-rents, addressed to the colonial Executive.

We ought not indeed to forget that the grantees have been themselves in fault, that they had the use of their unpurchased grants gratuitously for many years, during which (the best years of the colony,) they could have had little difficulty in not preventing the accumulation of the debt, but in wholly riding their estates of these petty incumbrances. Some of them go magnificently indeed—their names are seen on every map as proprietors of thousands and myriads of acres for which they never paid the public a penny; but instead of taking a landlord's pride in meeting their engagements to the Crown, or perfecting their ownership, they came with their money and their credit into competition with the more recently arrived, prevented these from getting the least bit of good land except at ruinous prices, unnaturally raised the price, and, we have reason to apprehend, confirmed a fallacious system of selling.

But whatever force may be in these remarks, it is, on the other hand, to be regarded that the greater number of these grants have fallen into the hands of purchasers, or of creditors, for value, who have not had the favourable opportunities enjoyed, but misused, by the original acquirers. It is with some show of reason alleged that grantees and subsequent acquirees were thrown off their guard by the negligence of the Crown in demanding the quit-rents, and even that this omission or leniency in the exaction was a manifestation of a purpose on the part of the Crown to forego the quit-rents. The officers of the Crown answer that no such negligence as has been supposed is justly chargeable, and they refer to repeated notices, both with respect to country and city quit-rents, and both with respect to arrears and redemption, from 1830 to the present date. We must admit that we can see nothing in support, but quite the contrary, of the assertion that the Crown manifested an intention to relinquish the arrears. We have tested the greater part of the notices referred to, and find them quite distinct, and some of them urgent. Some of them manifest a desire to accommodate landholders by receiving the arrears by certain specified instalments, but none whatever to abate them; rather (as we think) the reverse.

There is, however, a period—the planetary period, "the golden days," of the colony, from 1837 to 1841, during which no notices seem to have been issued. The Government were then as eager to sell, at the unnatural prices, fresh Crown lands, and as careless to levy the trifling revenue due from the early grants, as the people were to add house to house and held to

field without consideration of clear titles, or the means for securing eventual returns. So far, therefore, as this period extends, we think the Government have been remiss, and its remissness to be a good argument for an abatement of past scores.

It is further pleaded by those, who desire an abatement of the by-gone quit-rents, that the equitable principles, applied by the statute of limitations to debts between the lieges, ought to operate against claims so long disregarded, and consequently only six years' quit-rent ought to be charged. This argument appears to us to have great force. It is true that statutes of this kind do not affect the rights of the Crown. But why? simply because constitutionally it is the prerogative of the Crown to enjoy the confidence of its subjects. The Crown is supposed both to be incapable of doing wrong, and to be the fountain of clemency. There would be an inconsistency in restricting by such enactments the administration of justice as between the sovereign and the subject; but then there is an inconsistency, constitutionally absurd, in the supposition, that the sovereign will act harshly, and to the full extent of its claims, if by doing a good and loyal subject be oppressed.

On the same ground it is argued that the quit-rents ought to be redeemable at ten years, as for a short time they were, instead of twenty. But there is another reason for this: it would be more profitable in a pecuniary way. It is not to be expected that any considerable revenue will be derived from the redemption of quit-rents of twenty years, so long as the current rate of interest of money is from six to ten per cent. It is evident that if, for the sake of paying the Crown, the landholder is either obliged to borrow, or refrains from investing, at the current rate, he is a loser. There is, to be sure, a pecuniary gain to the Crown, whenever other circumstances induce a party to redeem his quit-rents on these unfavourable terms, but it is too paltry to be regarded.

As we have said, many of these grants have fallen into the hands of trustees of insolvent estates, and it has appeared a fair ground on which to ask and warrant an exemption, or at least reduction, from the accumulated amount of quit-rents in arrear, that properties in that condition are exempted by law from auction duties. The same consideration for the losses sustained by creditors, may well be applied to both species of charge, the main difference between them being only, that the one goes into the Land Fund, and the other into the ordinary revenue.

This brings us to consider the great argument advanced by Government in justification of the strict exaction. It is alleged that the Governor has no power to give up the revenue of the Crown, which is in fact the property of the public, and that nothing could be more objectionable or unconstitutional than the assumption on the part of the Governor of any British colony, of a power to remit quit-rents or to enforce payment of them at his pleasure; and that the notices allowing the redemption of quit-rents at ten instead of twenty years' purchase, were of a temporary nature, and the periods during which they were in operation have long since expired, and they cannot be extended or renewed without the express permission of HER MAJESTY'S Government.

It is too common for us to overlook the limitation of the GOVERNOR'S powers, and we are forced to grant that it is an argument not to be got over, but in one way. It is such a reply as renders unnecessary any answer to, or examination of, the other reasons set forth, in any request, for mitigating the burden of the quit-rents, addressed to the colonial Executive.

The only course left is for the parties sufficiently interested, or for the Legislative Council, after due inquiry as to the quantity and situations of lands remaining so burdened, to address the Home Government, praying either for an enlargement of the powers of the local executive, a devolution of some of the powers of administration of Crown Revenues to the Legislature, or at least a renewal of the specific indulgences as to the redemption of quit-rents, and an order to limit the demand for arrears to a specified number of years. To such an application we do not believe the Governor would offer any opposition. In it the considerations adverted to above may all be very properly urged.

It is supposed (we fear with reason) that besides an ungraciousness of manner, and an austerity of disposition, His Excellency entertains a reluctance to bring matters of comparatively little importance before the Home Government. He very probably thinks, that were he to encourage frequent applications to England, on all sorts of subjects in regard to which his own powers do not enable him to make concessions, the official correspondence, already great, would become uncontrollable. But we have no idea that the other Judges, to His Excellency the Governor, would not suffer a considerably amount of punishment than that which His Justice Dickinson, had before sentenced him. The sentence which the law compelled the prisoner, although he was bound to pass upon him, the only sentence which the law allowed, and which was far more severe than that which had been passed upon him, he should recommend, and so would their Honor the other Judges, to His Excellency the Governor, to make such an order, so that the prisoner would not suffer a considerably amount of punishment than that which His Justice Dickinson, had before sentenced him. The sentence which the law compelled the prisoner, was that he, Arthur Harvey, be transported for the term of his life.

PROVOKING TO A BRACH OF THE PEACE.

The ATTORNEY-GENERAL stated, that Edward Broadhurst, Esq., an attorney-at-law, of the Bench, had a party to prosecute for a breach of the peace, and to which the more on account of the youth of the prisoner, he had passed the lenient sentence of two years. He had since found that the Statute which permitted the Judge, in England, to pass such lenient sentence had not been adopted in this colony; and that there was only one instance, and that was one, in which he could have been on a prisoner convicted of the crime of forgery. But, he said, addressing the prisoner, although he was bound to pass upon him, the only sentence which the law allowed, and which was far more severe than that which had been passed upon him, he should recommend, and so would their Honor the other Judges, to His Excellency the Governor, to make such an order, so that the prisoner would not suffer a considerably amount of punishment than that which His Justice Dickinson, had before sentenced him. The sentence which the law compelled the prisoner, was that he, Arthur Harvey, be transported for the term of his life.

Mr. Justice DICKINSON reported the case to his learned brethren, stating the way in which he had stopped Mr. Broadhurst's counsel (Mr. Foster), from going into the circumstances which had led him to offer to defend which Mr. Broadhurst had been convicted, and also his intimation to Mr. Foster, that any suggestion of recommendation to mercy being made to the Jury by the counsel, such recommendation, if made, would be disregarded.

Some conversation took place as to whether the evidence as to the circumstances should have been admitted; Mr. Justice A'BECKERY appearing to concur with Mr. Justice Dickinson.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

Mr. Justice DICKINSON reported the case to his learned brethren, stating the way in which he had stopped Mr. Broadhurst's counsel (Mr. Foster), from going into the circumstances which had led him to offer to defend which Mr. Broadhurst had been convicted, and also his intimation to Mr. Foster, that any suggestion of recommendation to mercy being made to the Jury by the counsel, such recommendation, if made, would be disregarded.

Some conversation took place as to whether the evidence as to the circumstances should have been admitted; Mr. Justice A'BECKERY appearing to concur with Mr. Justice Dickinson.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.

The CHIEF JUSTICE having before mentioned a case which had occurred in Van Diemen's Land, and his recollection of which led him to entertain a somewhat different opinion to Mr. Justice Dickinson, now, at the request of His Honor, stated his recollection of the case. While he was Attorney-General of Van Diemen's Land, a party was prosecuted for a wilful and malicious assault by an magistrate, and the witness, who had been convicted of inciting to a breach of the peace; he now prayed the sentence of the Court upon him.



